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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/689,726	10/13/2000	Guy Nathan	871-92 C# M#	6818

7590 03/30/2004  
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8th Floor  
1100 N. Glebe Rd.  
Arlington, VA 22201

EXAMINER

GROSS, KENNETH A

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/689,726

Applicant(s)

NATHAN ET AL.

Examiner

Kenneth A Gross

Art Unit

2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 16-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3-5 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmidt et al. (U.S. Patent No. 4,558,413).

In regard to Claim 16, Schmidt teaches a system for remote loading of objects or files in order to update software, comprising an operating system architecture that includes a breakdown of various tasks into software modules that are interconnected by dynamic links or are made up of executable subroutines that have primary dependence links to other parts of the operating system (Column 10, lines 4-21), wherein each of the software modules is composed of object files or library files that are represented by dynamic link libraries that are organized between them according to a number of levels of dependence that are described in their respective attributes. Schmidt teaches that the software modules are composed on object files (Column 9, lines 33-36).

In regard to Claim 17, Schmidt teaches a system wherein the attributes of an object or a library indicate a version number and dependencies of the object with respect to other objects (Column 10, lines 51-59).

In regard to Claim 18, Schmidt teaches a system wherein the attributes indicate the level attributed to the software modules (Column 10, lines 22-44).

***Response to Arguments***

3. Applicant's arguments filed October 13<sup>th</sup>, 2000 have been fully considered but they are not persuasive.

Specifically, the applicant states that the present invention is distinct from Schmidt because the present invention teaches avoiding rebooting the terminal when an updated component software is downloaded (Page 4, lines 15-16). However, there is no language in Claims 16-18 that suggests this distinguishing feature, nor is the feature a direct result of the method steps set out in the claims.

Furthermore, the applicant states that Schmidt teaches modification of software on a terminal, where the present invention only replaces software with an updated version (Page 5, lines 3-6). However, Claim 16 only teaches a system used to "update software". The term "update software" can be given the broadest reasonable interpretation, and the term "update" can be seen as modification of software, since this does update the software on the terminal.

Finally, the applicant states that Schmidt does not teach that the dependencies of objects are integrated into each module itself by attributes of that module. Schmidt, however, does teach that the modules contain module dependencies within the modules themselves (Column 9, lines 43-50).

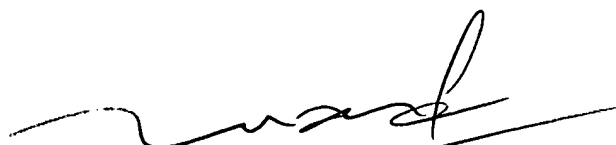
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth A Gross whose telephone number is (703) 305-0542. The examiner can normally be reached on Mon-Fri 7:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q Dam can be reached on (703) 305-4552. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

KAG



**TUAN DAM**  
**SUPERVISORY PATENT EXAMINER**